IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 150 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE Sd/-
and
Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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SARABHAI CHEMICAL P LTD

Versus

COMMISSIONER OF INCOME TAX

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Appearance:

1. INCOME TAX REFERENCE No. 150 of 1986

MR RK PATEL FOR MR KC PATEL for Applicant.

MR AKIL QURESHI FOR MR.RP BHATT for Respondent.

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CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 04/07/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

1. At the instance of the assessee, the following two questions have been referred to this Court for its opinion under the provisions of section 256(1) of the Income-tax Act,1961 (hereinafter referred to as 'the Act').

"1 Whether, on the facts and in the circumstances of the case, the Tribunal was justified in law in confirming the disallowance of guarantee commission of Rs.9,50,000/-?

2 Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in holding that the assessee was not entitled to claim clinical promotion expenses of Rs.19,480/- ?"

2. Learned Advocate Mr.R.K.Patel has appeared for the applicant-assessee, whereas learned Advocate Mr.Qureshi has appeared for the revenue.

3. At the time of hearing of this Reference, it has been fairly submitted by the learned Advocates that so far as the first question is concerned it has been answered in I.T.R.No.119 of 1998 in the case of the assessee itself. For the earlier assessment years the similar question had been referred to this Court and this Court in I.T.R.No.119 of 1988 has answered the said question in the negative i.e. in favour of the assessee and against the revenue.

4. In view of the said judgment, we answer the first question in the negative i.e. in favour of the assessee and against the revenue.

5. So far as the second question is concerned, learned Advocate Mr.R.K.Patel appearing for the applicant-assessee has fairly submitted that looking to the meagreness of the amount involved, the applicant-assessee would not like to press the said question. In the circumstances, we decline to answer the second question.

5. Thus, the Reference stands disposed of accordingly with no order as to costs.

Sd/- Sd/-
(A.R.Dave, J.) (D.A.Mehta,J.)

m.m.bhatt